

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2939 of 1996

GHANSHYAMBHAI HARMANBHAI PATEL

Versus

PATEL NATUBHAI ISHWARBHAI

CORAM : MR.JUSTICE A.N.DIVECHA

Date of Order: 19/04/96

ORAL ORDER

Rule. Service of rule is waived by learned

Advocate Shri A.J. Patel for the respondent. By consent of the learned lawyers appearing for the parties, this petition is taken up for its hearing and disposal today itself.

2. The interim order passed by the Gujarat Revenue Tribunal at Ahmedabad (the Tribunal for convenience) on 25th March 1996 at Annexure D to this petition is under challenge in this petition under art. 227 of the Constitution of India. By the impugned order, the Tribunal stayed operation of the appellate order passed by the Deputy Collector on 16th February 1996 at Annexure B to this petition.

3. It transpires from the impugned order passed by the Tribunal that it is not a speaking order. No reasons are assigned for coming to the conclusion about a prima facie case in favour of the original applicant and the case regarding the balance of convenience has not at all been considered. It cannot be gainsaid that it is in the nature of a judicial order. It is a settled principle of law that every judicial or quasi-judicial order has to be supported by reasons in view of the binding ruling of the Supreme Court in the case of The Siemens Engineering and Manufacturing Co. of India Ltd. v. The Union of India and another reported in AIR 1976 SC 1785.

4. Besides, in view of Regulation 55 of the Bombay Revenue Tribunal Regulations framed under the Bombay Revenue Tribunal Act, 1957, the Code of Civil Procedure, 1908 would be applicable to the proceedings before the Tribunal. Thereunder interim orders are passed by virtue

of the relevant provisions contained in Order 39 thereof. The relevant provisions contained therein would require the court to give reasons in support of its interim orders. The impugned order of the Tribunal at Annexure D to this petition is thus violative of the relevant provisions contained in the Code of Civil Procedure, 1908.

5. In view of my aforesaid discussion, I am of the opinion that the impugned order of the Tribunal at Annexure D to this petition cannot be sustained in law. It has to be quashed and set aside. The matter will have to be remanded to the Tribunal for restoration of the proceeding to file and for its fresh decision according to law in the light of this judgment of mine. If it is thought fit, the Tribunal may hear the entire matter rather than the interim application for injunction.

6. In the result, this petition is accepted. The interim order passed by the Gujarat Revenue Tribunal at Ahmedabad on 25th March 1996 below the stay application at Annexure D to this petition is quashed and set aside. The matter is remanded to the Tribunal for restoration of the proceeding to file and for its fresh decision according to law in the light of this judgment of mine. Both the parties are directed to maintain status quo with respect to the subject-matter of this petition till the Tribunal decides the matter. Rule is accordingly made absolute to the aforesaid extent with no order as to costs.

(A.N. Divecha, J.)